IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dhapi Devi v. Board of Revenue & Ors.

S.B.CIVIL WRIT PETITION NO.2580/1994
under Article 226 of the Constitution of India.

Date of Order : 3rd March, 2006

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

None present, for the petitioner.
Mr. Chaitanya Gahlot, for the respondent No.5.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

BY THE COURT :

By notice under Section 91 of the Rajasthan Land Revenue Act, 1956 (hereinafter referred to as “the Act of 1956”) respondent Rameshwarlal was called upon by Tehsildar, Dungargarh to remove the alleged encroachment from the agricultural land measuring 26 bighas. In pursuant thereto respondent Rameshwarlal submitted a reply stating therein that out of 26 bighas of land in question 17.5 bighas of land was allotted to him and he was also declared khatedar tenant with regard to part of land referred above by

Sub Divisional Officer, Ratangarh vide judgment dated 3.11.1982. Respondent Rameshwarlal in reply to application under Section 91 of the Act of 1956 also averred that a suit preferred by him before the Sub Divisional Officer, Ratangarh for getting tenancy rights with regard to remaining 12 bighas of land was also pending. The Tehsildar, Sridungargarh after receiving the reply from respondent Rameshwarlal referred the matter to the Sub Divisional Officer, Ratangarh who in his turn by order dated 28.9.1985 ordered for dispossessing Shri Rameshwarlal from the land in question by holding that the same could not be regularised in favour of Shri Rameshwarlal being part of proposed municipal limits of town Sridungargarh.

Being aggrieved by the order passed by Sub Divisional Officer, Ratangarh, Shri Rameshwarlal preferred an appeal before the Revenue Appellate Authority, Bikaner which came to be accepted by an order dated 13.2.1987, accordingly the order dated 28.9.1985 was quashed and the matter was remanded for its disposal afresh to Sub Divisional Officer, Ratangarh. The Sub Divisional Officer, Ratangarh in pursuant to the judgment dated 13.2.1987 heard the counsel for the parties and decided the matter afresh by order dated 5.11.1988. The Sub Divisional Officer, Ratangarh ordered for regularisation of possession of Shri Rameshwarlal on 8.15 bighas of land.

Petitioner Smt. Dhapi assailed validity and propriety of the order dated 5.11.1988 passed by learned Sub Divisional Officer, Ratangarh by way of filing an appeal before Revenue Appellate Authority, Bikaner which came to be rejected by judgment dated 5.8.1992 on the count that Smt. Dhapi was not a person aggrieved and as such she is having no locus to challenge the order dated 5.11.1988. Smt. Dhapi the present petitioner questioned validity of the judgment dated 5.8.1992 by way of filing a revision petition before the Board of Revenue under Section 76 read with Section 9 of the Act of 1956. The Board of Revenue by its judgment dated 8.10.1992 rejected the revision petition by holding that Smt. Dhapi (petitioner) was having no locus standi to make any complaint against the regularisation of possession over the land by Shri Rameshwarlal in pursuant to the order dated 5.11.1988 passed by the Sub Divisional Officer, Ratangarh. Being aggrieved by the order passed by the Board of Revenue instant petition for writ is preferred by the petitioner.

It is averred in the writ petition that according to Rule 4(5)(d) of the Rajasthan Land Revenue (Allotment of Land for Agricultural Purposes) Rules, 1970 (hereinafter referred to as “the Rules of 1970”) the land allotted to Shri Rameshwarlal was not available for allotment for agricultural purposes. It

is also averred that as the land was allotted in contravention of the Rules of 1970, therefore, the petitioner was having locus to challenge the same.

The petition for writ is called several times for hearing but no one appeared to pursue the petition on behalf of the petitioner. Heard counsel for respondent Shri Rameshwarlal and also scanned the petition and the documents annexed with it.

The Revenue Appellate Authority, Bikaner while rejecting the appeal preferred by the petitioner held that an appeal could be filed by the person aggrieved and the petitioner in no manner could be treated as a person aggrieved. The Board of Revenue also took the same view. From reading of the averments made in the writ petition it does not reveal as to how the petitioner is having any personal grievance for allotment of land in favour of respondent Shri Rameshwarlal. An appeal under Section 75 of the Act of 1956 can only be filed by a person aggrieved. The petitioner before the courts below failed to prove that she suffered with any injury on basis of which she could be termed as a person aggrieved. No material is available on record on basis of which it can be said that the petitioner is a person aggrieved and she is having a locus to challenge the allotment of land made in favour of respondent Shri Rameshwarlal.

In view of it I do not find any error in the judgments impugned warranting interference of this Court under Articles 226 and 227 of the Constitution of India.

Accordingly, the writ petition is dismissed.

(GOVIND MATHUR),J.

kkm/ps.